

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of.: Schacht, D.W. *et al.*
Serial No.: **10/627,990**
Filed: July 28, 2003
Title: IMPROVED TRANSDERMAL DELIVERY SYSTEM
Group Art Unit: 1616
Examiner: K.M. George
Confirmation No.: 4266
Docket No.: **6102-000070/US**
Client Ref.: P/Wo/VIII/11/02

SUBMITTED ELECTRONICALLY VIA EFS-WEB

July 29, 2008

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RESPONSE TO OFFICE ACTION DATED APRIL 1, 2008
(INCLUDING PETITION FOR EXTENSION OF TIME)

This paper is responsive to the Office Action dated April 1, 2008 in the above referenced application, in which a shortened statutory period of three months was set for reply. Petition is hereby made for extension of time of one (1) month. Authorization is hereby given to charge the fee due under 37 C.F.R. §1.17(a)(1) to Deposit Account 08-0750.

A Terminal Disclaimer in compliance with 37 C.F.R. §1.321(b) accompanies this paper. Authorization is hereby given to charge the fee for a Terminal Disclaimer under 37 C.F.R. §1.20(d) to Deposit Account No. 08-0750.

1. Provisional double patenting

Claims 1, 2, 5, 6 and 10–14 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly unpatentable over Claims 1–7 of copending application Serial No. 10/623,864 (Action, paragraph bridging pages 2–3).

Serial No. 10/627,990
6102-000070/US
Response to Office Action dated April 1, 2008
July 29, 2008

Alternatively, Claims 1–6 and 10–18 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly unpatentable over Claims 1–13 of copending application Serial No. 10/623,864 (Action, Summary and page 3). The rejection in either case is provisional because the allegedly conflicting claims have not yet been patented.

The attached Terminal Disclaimer in compliance with 37 C.F.R. §1.321(b) will obviate the pending double patenting rejection, regardless of which particular claims are subject to the rejection. In view of the attached Terminal Disclaimer, the double patenting rejection is moot and therefore, Applicant requests withdrawal of the present rejection.

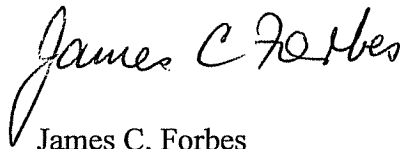
2. Conclusion

The statement in the present Action (Conclusion, page 4) that “Claims 1–6 and 8–14 are rejected” is either erroneous (if referring to the previous rejection under 35 U.S.C. §103(a) which is now withdrawn) or redundant (if referring to the double patenting rejection dealt with above). No further response to this statement is believed necessary.

It is believed that a full and complete response has been made to the present Action and that the application is in condition for allowance. Should any issues remain, the Examiner is invited to call the undersigned at the telephone number given below.

Respectfully submitted,

HARNESS, DICKEY & PIERCE, P.L.C.



James C. Forbes
Agent for Applicant
Reg. No. 39,457
Tel. 847-412-6350

Attachment
Terminal Disclaimer